



05-CV-01013-CMP

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TIMELINE, INC., a Washington corporation,

Plaintiff,

v.

PROCLARITY CORPORATION, an Idaho
corporation,

Defendant.

NO CV5 1013 JLR

COMPLAINT FOR PATENT
INFRINGEMENT

JURY DEMAND

Plaintiff Timeline, Inc., ("Plaintiff") hereby alleges as follows:

I. JURISDICTION AND VENUE

1. This is an action for patent infringement arising under the patent laws of the United States, specifically 35 U.S.C. §§ 271 and 281.
2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a).
3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b).

II. JURY DEMAND

4. Plaintiff demands a trial by jury for all issues triable to a jury.

COMPLAINT FOR PATENT
INFRINGEMENT - 1

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III. THE PARTIES

5. Plaintiff is a Washington corporation with its principal place of business in Bellevue, Washington.

6. Plaintiff alleges that defendant ProClarity Corporation ("ProClarity Corp.") is an Idaho corporation with its principal place of business in Boise, Idaho. ProClarity Corp. was previously known as Knosys, Inc. ProClarity Corp. does business in this judicial district and has committed the acts complained of in this judicial district.

7. Plaintiff is the owner by assignment of United States Patent No. 5,802,511 ("511 Patent"), which the United States Patent Office issued on September 1, 1998. This patent describes and claims the invention of Donald Babcock, *et al.* entitled Data Retrieval Method Apparatus with Multiple Source Capability. Plaintiff has developed, manufactures and sells products which are covered by one or more of the claims of the '511 Patent. A true and correct copy of the '511 Patent is attached hereto as Exhibit A.

8. On February 8, 2000, United States Patent No. 6,023,694 ("694 Patent") for Data Retrieval Method and Apparatus with Multiple Source Capability. Plaintiff is the owner by assignment of the '694 Patent. Plaintiff has developed, manufactures and sells products which are covered by one or more claims of the '694 Patent. A true and correct copy of the '694 Patent is attached hereto as Exhibit B.

9. On February 15, 2000, United States Patent No. 6,026,392 ("392 Patent") for Data Retrieval Method and Apparatus with Multiple Source Capability. Plaintiff is the owner by assignment of the '392 Patent. Plaintiff has developed, manufactures and sells products which are covered by one or more claims of the '392 Patent. A true and correct copy of the '392 Patent is attached hereto as Exhibit C.

10. On October 7, 2003, United States Patent No. 6,631,382 (the "'382 patent") for Data Retrieval Method and Apparatus with Multiple Source Capability issued. Plaintiff is the

1 owner by assignment of the '382 patent. Plaintiff has developed, manufactures and sell products
2 which are covered by one or more claims of the '382 patent. A true and correct copy of the '382
3 patent is attached as Ex. D.

4 11. On September 23, 2003, United States Patent No. 6,625,617 (the "'617 patent")
5 for Modularized Data Retrieval Method and Apparatus with Multiple Source Capability issued.
6 Plaintiff is the owner by assignment of the '617 patent. Plaintiff has developed, manufactures
7 and sell products which are covered by one or more claims of the '617 patent. A true and correct
8 copy of the '617 patent is attached as Ex. E.

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10 **IV. PATENT INFRINGEMENT**

11 12. Plaintiff repeats the allegations of paragraphs 1 through 9.

12 13. Defendant has been infringing and continues to infringe the '511 Patent, the '694
13 Patent, the '382 Patent, the '617 Patent and/or the '392 Patent by making, using, selling and/or
14 offering for sale without authorization products, including Defendant's "ProClarity" and other
15 products, which embody one or more claims of the '511, '694, '382, '617 and/or '392 Patents.
16 Plaintiff also alleges that Defendant has induced others to infringe Plaintiff's patents and that
17 Defendant knew or should have known its actions would induce infringement of Plaintiff's
18 patents. Defendant has induced others to infringe upon Plaintiff's Patents by teaching and
19 directing users to use Microsoft DTS and Analysis Services to design and use OLAP cubes in
20 conjunction with Defendant's "ProClarity" program in a manner that directly infringes Plaintiff's
21 patents. Defendant knew or should have known that the promotional and instructional materials
22 it offered would have the effect of inducing others to infringe upon Plaintiff's Patents. Defendant
23 and its officers, board members, and agents actively and with actual or constructive knowledge
24 aided and abetted others in the infringement of Plaintiff's patents. Plaintiff alleges, on
25

1 information and belief, that Defendant will continue to make and sell such infringing devices
2 unless restrained by this Court.

3 14. Defendant's conduct has been willful. Defendant has been aware of the acts
4 constituting inducement to infringe and infringement since as early as 1999 and continuing to the
5 present. Specifically, Plaintiff contacted Defendant on several occasions and informed
6 Defendant of its infringement. As early as 1999, Defendant was aware of Timeline's patents and
7 of Timeline's assertion that certain products developed by defendant in conjunction with
8 Microsoft infringed Timeline's patents. In 2000, Charles Osenbaugh, President of Timeline, had
9 several communications with Bob Lokken, Defendant's President, pointing out the existence of
10 Timeline's patents and defendant's encroachment on them. Plaintiff subsequently wrote to Denis
11 Weyrauch, Defendant's General Counsel, and informed him of applications that potentially
12 violated the Patents held by Plaintiff.

13 15. Defendant's products work in conjunction with Microsoft's DTS and Analysis
14 Services. In 1999, Microsoft felt a need to take a license under Timeline's patents. In 2002, the
15 Washington Court of Appeals determined that Microsoft's license did not cover products, such as
16 Defendant's, that infringed in combination with Microsoft's DTS and Analysis Services. See
17 Microsoft Corp. v. Timeline, Inc., 110 Wn. App. 1046 (2002). Nevertheless, Defendant has
18 ignored any attempts to negotiate any resolution of the Patent infringement. Instead, Defendant
19 and its officers and directors have made additional investments in Defendant corporation to
20 permit it to expand its infringing activity. Defendant and its officers and directors have
21 continued to release promotional material, instructional material and offer courses that induce
22 users to infringe, and they have released a directly infringing version of Proclarity. These actions
23 constitute willful infringement and make this an exceptional case under 35 U.S.C. §284.

24 16. Even if Defendant's products do not literally infringe the '511 Patent, the '694
25 Patent, and/or the '392 Patent, they are substantially similar to the inventions claimed in the '511

1 Patent, the '694 Patent, the '382 Patent, the '617 Patent and/or the '392 Patent, such that, under
2 the doctrine of equivalents, they constitute acts of infringement.

3 17. Defendant has derived and will continue to derive and receive from the above-
4 alleged acts of infringement, profits and revenues in an amount that is not presently known to
5 Plaintiff. Further, with respect to the '511 Patent, the '694 Patent, the '382 Patent, the '617
6 Patent and/or the '392 Patent such acts of infringement were made with knowledge of one or
7 more of the patents and were thus committed intentionally and willfully. By reason of the above
8 acts of infringement, Plaintiff has been and will continue to be damaged in an amount to be
9 determined at trial.

10 **V. DEMAND FOR RELIEF**

11 **WHEREFORE** Plaintiff prays for relief as follows:

12 A. That Defendant be adjudged to have infringed the '511 Patent, the '694 Patent, the
13 '382 Patent, the '617 and/or the '392 Patent;

14 B. That Defendant and its officers, agents, servants, employees, attorneys and all
15 other persons acting in concert, participation or privity with them who receive actual notice of the
16 order by a personal service or otherwise and Defendant's successors and assigns be permanently
17 restrained and enjoined from directly or indirectly infringing the '511 Patent, the '694 Patent, the
18 '382 Patent, the '617 Patent and/or the '392 Patent;

19 C. For an accounting and award of damages by reason of Defendant's infringement
20 of the '511 Patent, the '694 Patent, the '382 Patent, the '617 Patent and/or the '392 Patent;


21 D. For an award of prejudgment and postjudgment interest, exemplary damages and
22 costs against Defendant in accordance with 35 U.S.C. § 284;

23 E. For an award of damages, punitive damages, attorney's fees and prejudgment
24 interest;
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1 F. That Plaintiff be awarded such other further relief as this Court may deem just,
2 equitable and proper.

3 DATED this 3rd day of June 2005.

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5 ROHDE & VAN KAMPEN PLLC

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7 By: 
8 Robert E. Rohde, WSBA #12809
9 Christopher C. Lee, WSBA #26516
10 Attorneys for Plaintiff
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